


TO: Child Welfare Oversight Panel members

FROM: Julie V. Lund 
Division Chief, Child Protection Division
Office of the Utah Attorney General

DATE: September 29, 2009

RE: Child Protection Division, Case Time Limits Report

INTRODUCTION

Attached, please find the 2009 Case Time Limit Report compiled by the Utah Attorney General's Office, Child Protection Division. The Report contains information on child protection cases opened from October 1, 2008 through September 29, 2009. It is divided into two sections: (1) "Case Tracking Report," which provides time frame information on child protection cases from October 1, 2008 through September 29, 2009; and (2) "Case Tracking Exception Report," which identifies the number of cases in which a statutory time limit was missed, the percentage of cases which were outside of the time limit and a summary of the reasons for the missed time frames.

The following is a brief summary of the Report and the case outcomes. I am anxious to respond to the Committee's questions and comments and look forward to reviewing these materials with the Committee, upon your request.

BACKGROUND

In 2001, the Legislature amended Utah Code Ann. § 62A-4a-207, requiring an annual report to the Legislative Oversight Panel. Specifically, sub-section 207(4)(c) was added, stating:

[B]efore October 1, 2002 and before October 1 of each year thereafter receive reports from the division, the attorney general, and the judicial branch identifying the cases not in compliance with the time limits established in Section 78A-6-309, regarding pretrial and adjudication hearings, Section 78A-6-311, regarding dispositional hearings and reunification services, and Section 78A-6-314, regarding permanency hearings and petitions for termination, and the reasons for noncompliance.

Although this annual reporting requirement does not specifically include the time frame for shelter hearings, we have included the shelter hearing data. The timeliness of shelter hearings is a key indicator in evaluating overall systemic performance.

SUMMARY OF CASE TIME LIMIT COMPLIANCE

REMOVAL TO SHELTER HEARING

Utah Code Ann. § 78A-6-306 requires that a shelter hearing be held within 72 hours following the removal of a child from the child's home. The 72 hours does not include weekends and holidays. During this reporting period, 1,426 shelter hearings were held. Eighty-nine percent (89.1%) of these hearings were held within 72 hours of removal. Within one week of the deadline, ninety-nine percent (99%) of the shelter hearings had been held. The principal reasons for non-compliance were the court's calendar and holidays.

PRETRIAL HEARING

The pretrial deadline is established in Utah Code Ann. § 78A-6-309. Specifically, the pretrial hearing must be held within 15 calendar days from the date of the shelter hearing. One extension of the pretrial is permitted, upon a showing of good cause.

During the period of the report, 1,322 pretrial hearings were held. Eighty-two percent (82%) of the pretrial hearings were held within 15 calendar days of the shelter hearing. Within one week of the deadline, eighty-nine percent (89.2%) of the pretrial hearings had been held. The reason cited most frequently for delay beyond the 15 day period was the court's calendar.

There were also 1223 pretrials held after the filing of a Protective Supervision Services petition during this reporting period. Of these, nearly ninety-three percent were held within fifteen days of the filing of the petition. Within one week of the deadline, ninety-six percent (96.5%) of the pretrials had been held. The most frequently cited reason for non-compliance was the court's calendar.

ADJUDICATION HEARING (TRIAL)

The adjudication hearing deadline is found in Utah Code Ann. § 78A-6-309. The final adjudication hearing must be held no later than 60 calendar days from the date of the shelter hearing or the filing of a petition.

Of the 1240 post shelter adjudication hearings which were held during the reporting period, ninety-five percent (95.2%) of the hearings were timely. Within one week of the deadline, ninety-six percent (96.2%) of the adjudication hearings had been held. A frequently cited reason for non-compliance was the court's calendar.

DISPOSITIONAL HEARING

Utah Code Ann. § 78A-6-311 provides that a dispositional hearing must be held 30 days from the date of the adjudication hearing. During the reporting period, 1171 dispositional hearings were held. Eighty-three percent (83%) of these hearings occurred within 30 days of the adjudication hearing. Within one week of the deadline, almost ninety-three percent of the dispositional hearings had been held. The court's calendar was a frequently cited reason for non-compliance with the statutory time limit.

PERMANENCY HEARING

The time limits for permanency hearings are contained in Utah Code Ann. § 78A-6-314. Specifically, when reunification services are ordered by the court with respect to a child who is older than 36 months, a permanency hearing must be held no later than 12 months after the original removal of the child. For a child who is 36 months or younger at the time of removal, the permanency hearing must be held eight months after the original removal.

During the period of the Report, 902 permanency hearings were held. Eighty-nine percent (89.6%) of these hearings were timely. Within one week of the deadline, ninety-two percent (92.4%) of the permanency hearings had been held. The primary reason stated to explain the delay was the court's calendar.

PETITIONS FOR TERMINATION OF PARENTAL RIGHTS AND PRETRIAL

The time lines for petitions to terminate parental rights and the subsequent pretrial are contained in Utah Code Ann. § 78A-6-314. If the final plan at the permanency hearing is to proceed toward termination of parental rights, the petition shall be filed and a pretrial held within 45 calendar days of the permanency hearing.

In 234 cases, the court ordered no further reunification services at the permanency hearing, thus requiring that a petition to terminate parental rights be filed within 45 days. In seventy-six percent (76.5%) of these cases, the termination pretrial timely held. Within one week of the deadline, nearly eighty percent (79.9%) of the pretrials had been held.

COMPARISON WITH 2006-07

	2007-2008		2008-2009	
	<u>Total Hearings</u>	<u>Compliance %</u>	<u>Total Hearings</u>	<u>Compliance %</u>
Removal to Shelter Hearing (72 Hours)	1351	88.2%	1426	89.1%
Shelter Hearing to Pre-trial Hearing (15 Days)	1058	82.4%	1322	82%
Shelter Hearing to Adjudication Hearing (60 Days)	992	94.7%	1240	95.2%
Adjudication Hearing to Disposition Hearing (30 Days)	966	87.5%	1171	83%

Removal to Permanency Hearing (8 to 12 months)	963	87.2%	902	89.6%
Permanency Hearing to Termination Petition Filed (45 Days)	265	86.4%	234	76.5%

Although not required to do so, the Child Protection Division of the Attorney General's Office began tracking Protective Supervision Services ("PSS") case loads in 2003. In general, PSS cases involve matters where the Division provides court ordered services while the children remain in the home. Most of the procedural requirements (filing of a Verified Petition, right to counsel, pretrials, trials and review hearings) are the same for the PSS and the in-custody cases. Between October 1, 2008 and September 29, 2009, the Child Protection Division filed 1,223 PSS Petitions. Of those petitions, nearly ninety six percent (95.5%) were adjudicated within sixty days.

CONCLUSIONS

The time limits established in Sections 78A-6-309, 311, and 314 are important benchmarks against which to measure the success of the child welfare system in Utah. The time frames are designed to ensure that children do not languish in foster care and that families receive timely services. This is the eighth year that the Attorney General's Office, Child Protection Division, has had to evaluate its systemic performance against these measures. Overall, the high level of compliance was maintained in 2009. We will continue to use the data to help improve our practice.

Office of the Utah Attorney General

Child Protection Division - Case Tracking Report

Reporting Period: 10/01/2008 - 09/29/2009

	Number in Compliance	% in Compliance	within 1 week	within 2 weeks	within 30 days	Compliance in over 30 days	Average Days	Total Hearings
Removal to Shelter Hearing (72 Hours)	1270	89.1	150	1	2	3	-1020.6	1426
Shelter Hearing to Pre-trial Hearing (15 Days)	1084	82.0	96	93	39	10	9.7	1322
Shelter Hearing to Adjudication Hearing (60 Days)	1180	95.2	13	25	8	14	11.6	1240
Adjudication Hearing to Disposition Hearing (30 Days)	972	83.0	114	36	19	30	16.2	1171
Removal to Permanency Hearing (8 or 12 months)	808	89.6	26	13	19	36	252.2	902

	<i>Number in</i>	<i>% in</i>	<i>Compliance</i>	<i>Compliance</i>	<i>Compliance</i>	<i>Compliance in</i>	<i>Average</i>	<i>Total</i>
	<i>Compliance</i>	<i>Compliance</i>	<i>within 1 week</i>	<i>within 2 weeks</i>	<i>within 30 days</i>	<i>over 30 days</i>	<i>Days</i>	<i>Hearings</i>
Permanency Hearing to Termination Petition Filed (45 days)	179	76.5	8	7	3	37	53.5	234

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Child Protection Division - Case Tracking Report for Protective Supervision Services

Reporting Period: 10/01/2008 - 09/29/2009

	Number in	% in	Compliance	Compliance	Compliance	Compliance in	Average	Total
	Compliance	Compliance	within 1 week	within 2 weeks	within 30 days	over 30 days	Days	Hearings
PSS Date Petition Filed to Pre-trial Hearing (15 Days)	1135	92.8	46	30	8	4	7.5	1223
PSS Date Petition Filed to Adjudication Hearing (60 Days)	1168	95.5	25	10	11	9	16.6	1223

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Child Protection Division - Case Tracking Exception Report

Reporting Period: 10/01/2008 - 09/29/2009

	Total Hearings	Number out of Compliance	% out of Compliance	Reason for non-compliance	Number	%
Removal to Shelter Hearing (72 Hours)	1426	156	10.9	Court Calendar Motion to Continue Filed By Witness Unavailable Counsel Unavailable Change of Counsel Unable to Serve Unable to Locate Unable to Transport from Jail Counsel or Party Failed to Appear Other	103 10 0 0 1 0 0 0 0 0 0 42	66.0 6.4 .0 .0 .6 .0 .0 .0 .0 .0 .0 26.9
Shelter Hearing to Pre-trial Hearing (15 Days)	1322	238	18.0	Court Calendar Motion to Continue Filed By Witness Unavailable Counsel Unavailable Change of Counsel Unable to Serve Unable to Locate Unable to Transport from Jail Counsel or Party Failed to Appear Other	198 6 0 0 0 0 3 0 0 1 30	83.2 2.5 .0 .0 .0 .0 1.3 .0 .0 .4 12.6

	Total Hearings	Number out of Compliance	% out of Compliance	Reason for non-compliance	Number	%
Shelter Hearing to Adjudication Hearing (60 Days)	1240	60	4.8	Court Calendar Motion to Continue Filed By Witness Unavailable Counsel Unavailable Change of Counsel Unable to Serve Unable to Locate Unable to Transport from Jail Counsel or Party Failed to Appear Other	36 1 0 0 0 2 1 1 0 4 15	60.0 1.7 .0 .0 .0 3.3 1.7 1.7 .0 6.7 25.0
Adjudication Hearing to Disposition Hearing (30 Days)	1171	199	17.0	Court Calendar Motion to Continue Filed By Witness Unavailable Counsel Unavailable Change of Counsel Unable to Serve Unable to Locate Unable to Transport from Jail Counsel or Party Failed to Appear Other	153 3 0 0 0 0 0 2 0 0 41	76.9 1.5 .0 .0 .0 .0 .0 1.0 .0 .0 20.6

	Total Hearings	Number out of Compliance	% out of Compliance	Reason for non-compliance	Number	%
Removal to Permanency Hearing (8 or 12 months)	902	94	10.4	Court Calendar Motion to Continue Filed By Witness Unavailable Counsel Unavailable Change of Counsel Unable to Serve Unable to Locate Unable to Transport from Jail Counsel or Party Failed to Appear Other	65 0 0 0 0 0 0 0 0 0 0 29	69.1 .0 .0 .0 .0 .0 .0 .0 .0 .0 .0 30.9
Permanency Hearing to Termination Petition Filed (45 days)	234	55	23.5	Court Calendar Motion to Continue Filed By Witness Unavailable Counsel Unavailable Change of Counsel Unable to Serve Unable to Locate Unable to Transport from Jail Counsel or Party Failed to Appear Other	17 0 0 0 0 2 0 2 0 0 34	30.9 .0 .0 .0 .0 3.6 .0 3.6 3.6 .0 .0 61.8